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August 1, 2018

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79;
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84;
Streamlining Deployment of Small Cell Infrastructure, WT Docket No. 16-421;
Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies, ET Docket No. 13-84;
Accelerating Broadband Deployment, Broadband Deployment Advisory Committee, GN Docket No. 17-83

Dear Ms. Dortch:

The undersigned submits this *ex parte* letter in the above-captioned proceedings to disclose written materials shared with the Commission today in response to a request from staff in the Office of Commissioner Jessica Rosenworcel. The presentation and disclosure is permitted under Part 1.1204(a)(10) of the Commission's Rules, as an exception to the prohibition on *ex parte* communications during the Sunshine Period. This information was "requested by [...] the Commission or staff for the clarification or adduction of evidence."¹ The information contained in this letter and its attachments was transmitted today via electronic mail to Umair Javed, Legal Advisor to Commissioner Jessica Rosenworcel, on behalf of my client, the City of Myrtle Beach, South Carolina.

At the request of Commissioner Rosenworcel's office, I made contact with Myrtle Beach regarding the accusations in paragraph 140 of the Commission's proposed Declaratory Order on Small Cell Moratoria. As reflected in the attached Declarations from the City's Mayor and Engineer, the City challenges the accusation in the proposed Order and questions the probative value of any accusations made by the party(ies) filing the claims.

The carriers may be confusing the fact that the South Carolina Department of Transportation has well established dates on certain highways when no construction can be done

¹ 47 C.F.R. § 1.1204(a)(10).

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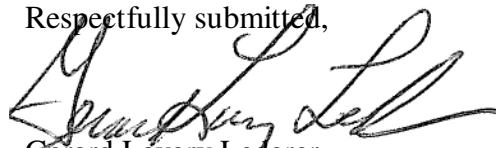
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Page 2

based upon the volume of traffic that is handled by those roads during those time periods. It would seem that the proposed Declaratory Order would set aside such traffic management plans and give priority to telecom users over other uses and users of the rights-of-way. The Declaratory Order also ignores the time honored rule in every state that a user of the right-of-way cannot incommode the public. It would appear that the Declaratory Rule would say that standard of not incommoding the public applies to anyone but an entity that provides interstate or intrastate telecommunications services. Moreover, by overriding such regulations, it seems as though there is a taking of sorts – the interests of the telecom providers have been escalated over those of others and the rights of the property owners in the rights-of-way.

Finally, it is important that the Commission understand that when the no construction time period exists under the State of South Carolina DOT rules, construction can continue in Myrtle Beach as the City has developed a creative solution. The City has installed excess conduit in their major thoroughfares that is available to parties that might not otherwise be able to deploy due to the prohibition digging up major thoroughfares in high/hurricane season.

As required by the Commission's rules, an electronic copy of this letter and its attachments is being filed in the above-captioned proceedings.² Please do not hesitate to contact me if there are any questions.

Respectfully submitted,


Gerard Lavery Lederer
of BEST BEST & KRIEGER LLP

cc: Umair Javed

Enclosures

² 47 C.F.R. § 1.1206(b)(2)(v); *see also* 47 C.F.R. § 1.1204(a)(10)(iv) (requiring that presentations made under this provision during the sunshine period be disclosed in accordance with 47 C.F.R. § 1.1206(b).)

SWORN DECLARATION AND AFFIDAVIT

In the Matters of:

Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79;

Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84;

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I, Brenda Bethune, am the duly elected Mayor of the City of Myrtle Beach. I have personal knowledge of the facts stated herein, and absolute confidence in the administrative information provided to me by the Public Works Department in sworn affidavit in regards to the receiving and reviewing applications for deployments of telecommunication facilities within the public right-of-ways in the City of Myrtle Beach.

I am informed that the Federal Communications Commission will issue an order on August 2, 2018 in which it is stated that the City of Myrtle Beach refuses to process applications for small cell deployment. Nothing could be further from the truth.

I affirm that there is no motion, resolution or ordinance by the legislative body, and no executive directive that we do not process applications. This is a particularly offensive false assertion. We are actively and encouragingly engaged with service providers in streamlining an administrative approval process using safe harbor designs. While this process has been ongoing, we have made a point, in all our meeting and in writing, to inform everyone that we are still accepting applications and will review them under our current law. To say that we refuse to process requests is completely false.

By way of attachment to my Declaration, I am informed by sworn affidavit that John C. Johnson has received an application submitted to the City from Mr. Mark Vipperman on behalf of Crown Castle NG East LLC dated August 17, 2015 for the placement of fiber optic cable and related appurtenances within right-of-ways in the City. This application was reviewed and denied for various reasons and a written response provided to Mr. Vipperman dated October 19, 2015.

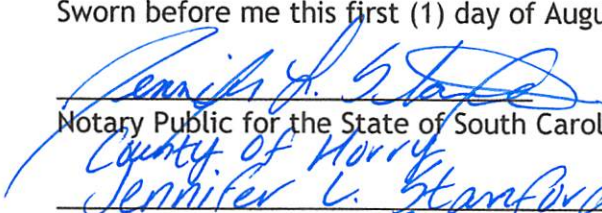
I am further informed that John C. Johnson received an application submitted to the City from Mr. Shamaury Myrick on behalf of Mobilitie, LLC submitted July 19, 2016 for the placement of a utility pole located within a public right-of-way in the City. This application was reviewed and denied for various reasons and a written response provided to Mr. Shamaury dated August 12, 2016.

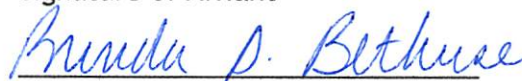
I am further informed that John C. Johnson received an application submitted to the City from Mrs. Megan Sikes on behalf of South Carolina Transmission Network, LLC dated March 08, 2016 for the placement of a utility pole located within a public right-of-way in the City. This application was reviewed and denied for various reasons and a written response provided to Mrs. Sikes dated March 21, 2016.

No one has been instructed or even suggested that an application for use of public right-of-ways within the City cannot and would not be accepted for review and consideration. In fact, the quite the opposite has occurred, as confirmed by our City Attorney. Every provider who has participated in our streamlining process has been individually informed, and informed as a group in multiple working group meetings and the public hearings before City Council that our efforts to develop an alternative approval process in no way acts as a bar to applying under our current wireless deployment ordinance. These meetings were recorded.

Sworn before me this first (1) day of August, 2018

Signature of Affiant


Notary Public for the State of South Carolina



County of Horry

My Commission expires April 1, 2023



SWORN DECLARATION AND AFFIDAVIT

In the Matters of:

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I, John C. Johnson, the Engineering Manager for the City of Myrtle Beach Public Works Department and my Staff are responsible for receiving and reviewing applications for deployments of telecommunication facilities within the public right-of-ways in the City of Myrtle Beach.

I have received an application submitted to the City from Mr. Mark Vipperman on behalf of Crown Castle NG East LLC dated August 17, 2015 for the placement of fiber optic cable and related appurtenances within right-of-ways in the City. This application was reviewed and denied for various reasons and a written response provided to Mr. Vipperman dated October 19, 2015.

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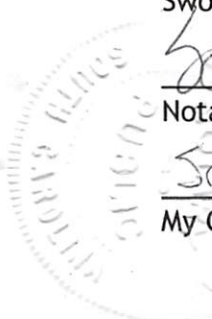
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No one has been told by myself or my Staff that an application for use of public right-of-ways within the City cannot and would not be accepted for review and consideration.

The City is well aware of the Federal and State requirements for a timely response for applications submitted to the City for use of public right-of-ways for telecommunication facilities.

Sworn before me this first (1) day of August, 2018

Signature of Affiant


Sandra R. Zantini
Notary Public for the State of South Carolina
County of Horry
Sandra R. Zantini
My Commission expires 8-26-2019

John C. Johnson



South Carolina
Department of Transportation

MEMORANDUM

TO: Contractors & Utility Companies under SCDOT, Horry Maintenance Jurisdictional Area

FROM: Mr. Shannon Welch, RME Horry Maintenance *SW*

DATE: January 5, 2018

SUBJECT: **2018 HOLIDAY/WEEKEND RESTRICTION LETTER**

HOURLY RESTRICTIONS FOR LANE CLOSURES On MULTILANE PRIMARY and SECONDARY ROUTES

The Department prohibits the installation of lane closures, flagging operations, road closures, shoulder closures, pacing operations or any operations that will impact the efficient flow of traffic or hinder normal traffic operations on the roads of the South Carolina state highway system during those times listed below, peak travel hours, holidays, holiday weekends, extended holiday periods, weekends, special events or any time traffic volumes are high. Do not close travel lanes on high volume highways during peak traffic periods or any time traffic volumes exceed the numerical values determined to be acceptable by the Department. Do not close travel lanes or roads with high volume commuter traffic during peak traffic periods. The Department reserves the right to modify these restrictions as listed as conditions warrant and as directed by the Engineer. In accordance with Engineering Directive Number 32, Hourly Restrictions for Lane Closures on Interstate and Primary Routes, all Department forces and all entities contracted by the Department will not install lane closures or interfere with or impact normal traffic operations on primary and secondary routes during those times of the day when traffic volumes in the travel lanes remaining open to traffic exceed 800 vehicles per hour per lane per direction. In addition to the multilane primary and secondary routes included in this list, ALL multilane primary and secondary routes with traffic volumes that exceed 800 vehicles per hour per lane per direction are subject to hourly lane closure restrictions. For questions regarding these restrictions, contact the Resident Maintenance Engineer (RME).

In addition to the attached road list indicating hourly lane closures and the above noted, effective Friday March 30, 2018 (Easter Weekend) through Monday, September 03, 2018 (Labor Day Weekend) there is to be no work performed Friday through Sunday on the following roads.

-US 378	-US 501	-US 501 BUS	-US 701	- US 17
-US 17 BUS	-SC 707	-SC 9	- SC 9 BUS	-SC 410
-SC 65	-SC 90	-SC 179	-SC 905	-SC 544
-SC 319	-SC 22	-SC 31		

In addition to the above, no work shall be performed on the following holiday weekends.

- Easter	(Friday, March 30, 2018 thru Monday, April 02, 2018)
- Memorial Day	(Friday, May 25, 2018 thru Monday, May 28, 2018)
- Fourth of July	(Friday, June 29, 2018 thru Monday, July 09, 2018)
- Labor Day	(Friday, August 31, 2018 thru Monday, September 03, 2018)
- Thanksgiving	(Wednesday, November 21, 2018 thru Monday, November 26, 2018)
- Christmas	(Friday, December 21, 2018 thru Tuesday, January 01, 2019)

In the event of emergency or severe weather conditions this restriction may be suspended until the safety of the public is assumed. Any exceptions to this memorandum must be requested to the local SCDOT maintenance office via letter and/or email. No work is to begin until approved by the RME or his representative in writing.

If any questions please feel free to contact Ms. Lindsey Schirra, Brian Gray, Ashley Butler or Daniel Vidal at (843) 365-0001.



Horry County
4145 Highway 701 N
Conway, South Carolina 29526

Maintenance: (843) 365-2130
Construction: (843) 365-2106
Fax: 365-0338

AN EQUAL OPPORTUNITY
AFFIRMATIVE ACTION EMPLOY